

In re: MICHAEL J. GOLDSMITH and DIANE G. GOLDSMITH

Case No.02-14039-BKC-AJC

Chapter 13

The Trustee objected to the Debtors' claim of federal exemptions on the basis that the Debtors are not United States citizens and therefore are not entitled to the exemptions. The Trustee further objected to their claim of exemptions because the Debtors are residents of the State of Florida, albeit not permanent residents, and Florida's Opt-Out statute prohibits residents from claiming the federal exemptions.

The Court concluded that the Debtors, non-immigrant aliens, are entitled to the federal exemptions even though they are not domiciled in any state. Citing Chief Bankruptcy Judge Robert A. Mark's decision in In re Arispe, the Court held that Florida Statute §222.20 does not apply to non-immigrant alien debtors residing, but not domiciled, in Florida. Accordingly, the Opt-Out Statute does not prevent them from utilizing the federal exemptions under 11 U.S.C. §522(b).